

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FREDY ORLANDO VENTURA, <i>Petitioner,</i> v. IMMIGRATION AND NATURALIZATION SERVICE, <i>Respondent.</i>	}
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No. 99-71004
INS No.
A72-688-860

On Remand from the United States Supreme Court

FREDY ORLANDO VENTURA, <i>Petitioner,</i> v. IMMIGRATION AND NATURALIZATION SERVICE, <i>Respondent.</i>	}
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No. 00-70328
INS No.
A72-688-860
ORDER

Petition to Review an Order of the
Board of Immigration Appeals

Submitted January 17, 2003*
San Francisco, California

Filed January 17, 2003

Before: Mary M. Schroeder, Chief Judge, Donald P. Lay,**
and David R. Thompson, Circuit Judges.

*This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

**The Honorable Donald P. Lay, Senior United States Circuit Judge for the Eighth Circuit, sitting by designation.

ORDER

In an order filed this date, Case No. 00-70328 has been consolidated with Case No. 99-71004.

Pursuant to *INS v. Fredy Orlando Ventura*, 123 S. Ct. 353 (2002), Case No. 99-71004 is remanded to the BIA for its consideration of the question whether there are changed country conditions in Guatemala that rebut the presumption that Ventura has a well-founded fear of future persecution on account of the political opinion imputed to him. In its consideration of that question, the BIA may reopen the record to permit “the presentation of further evidence of current circumstances in Guatemala — evidence that may well prove enlightening given the five years that have elapsed since the [previously considered country] report was written. *See* §§ 3.1, 3.2 (permitting the BIA to reopen the record and to remand to the Immigration Judge as appropriate).” *Ventura*, 123 S. Ct. at 356.

In the event the BIA reopens the record to consider the changed circumstances issue, it should also consider allowing Ventura to present the new evidence of family persecution which he sought to present by his motion to reopen (petition for review in Case No. 00-70328), together with any other current evidence of such family circumstances. Accordingly, Case No. 00-70328 is remanded to the BIA to permit it to reconsider its previous denial of Ventura’s motion to reopen, and to permit the presentation of evidence of Ventura’s family’s current circumstances in Guatemala. The remand in Case No. 00-70328 is without prejudice to Ventura reinstating his petition for review in that case following reconsideration by the BIA.

CONSOLIDATED AND REMANDED.

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